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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,766	04/14/2004	Christopher T. Rich	P68778US1	4714

136 7590 03/01/2005

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EXAMINER

LOFDAHL, JORDAN M

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,766

Applicant(s)

RICH ET AL.

Examiner

Jordan Lofdahl

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-20 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10-14, 16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kilham (5062388) and further in view of James, II (5538455).

As to claim 1, Kilham discloses a cylindrical housing having a top and a bottom and a cover (12). Not disclosed is a spiral partition. James, II, however, discloses a cylinder with a spiral partition (14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of Kilham with the partition of James, II to create a dividing means so different kinds of feed could be used in each compartment. Disclosed is a base (fig. 4) having at least two vertically segregated feed chambers (the spiral divider in the tube extends into the base and vertically segregates the feed chamber) communicating with each of said spiral compartments and having an opening (32).

As to claims 2 and 19, disclosed is a device, as modified, comprising two compartments and corresponding feed chambers. Not disclosed are three compartments and three corresponding feed chambers. It would have been obvious to one having ordinary skill

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in the art at the time the invention was made to comprise the device with a third compartment and corresponding feed chamber; since it has been held that mere duplication of the essential working parts of the device involves only routine skill in the art.

As to claim 3, disclosed is a transparent plastic divider ('455; col. 2, lines 22-24) and housing ('388; 14).

As to claim 4, not disclosed are the housing and divider made of a single twisted extrusion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the housing and divider of a single twisted extrusion, since it has been held that forming in one piece an article which was formerly been formed in two pieces and put together involves only routine skill in the art.

As to claim 5, disclosed is a device, as modified, where the segregated feed chambers are defined by radially extending dividers (the spiral divider in the tube extends into the base and vertically segregates the feed chamber) in a cylindrical coupler (fig. 4) connected to the housing bottom.

As to claim 6, disclosed is the coupler having an upper and lower end and a seed catcher (40).

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As to claim 7, disclosed is the upper end of the coupler frictionally engaged with the bottom of the housing (clamping; col. 4, lines 24-26).

As to claim 12, Kilham discloses a cylindrical plastic housing (14) and a cap (12). Not disclosed is a spiral partition. James, II, however, discloses a cylinder with a spiral partition (14). It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device of Kilham with the partition of James, II to create a dividing means so different kinds of feed could be used in each compartment. Disclosed is a coupler (16 and 92) having an upper end frictionally engaged with the bottom of the housing (clamping; col. 4, lines 24-26) and having dividers (the spiral divider in the tube extends into the base and vertically segregates the feed chamber) which would direct seeds separately from each spiral compartment to a feed opening (32) associated with the coupler chamber and a seed catcher (18).

As to claim 13, disclosed is a device, as modified, where the coupler dividers are vertical and equally spaced.

As to claim 14, disclosed is a dish (40).

As to claim 16, disclosed is an upstanding central hub (52) adapted to receive a cylindrical mounting post (86).

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As to claim 18, disclosed is a transparent plastic housing (14).

As to claim 20, disclosed are openings (58).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kilham (5062388) in view of James, II (5538455) and further in view of Cote (6543384).

As to claim 8, not disclosed is a baffle adjacent the upper end. Cote, however, discloses a baffle (18) adjacent the upper end of the base. It would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the device, as modified, of Kilham with the baffle of Cote to create a means to shelter the birds from rain and/or sun.

Claim 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kilham (5062388) in view of James, II (5538455) and further in view of Jackes et al. (2884899).

As to claims 9 and 15, not disclosed is the lower end of the coupler including a downwardly depending element with generally horizontal flanges which locking engage in slots on the seed catcher. Jackes et al., however discloses a downwardly depending element (80) with generally horizontal flanges (82) which locking engage in slots (81) on the seed catcher (20). It would have been obvious to one having ordinary skill in the art

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at the time the invention was made to comprise the coupler and seed catcher of Kilham with the element , flange and slot of Jackes et al. to create a snap fit/quick disconnect connection means.

Allowable Subject Matter

Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan Lofdahl whose telephone number is 703.605.1217. The examiner can normally be reached on m-f 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 703.305.7421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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